

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
	:	
Plaintiff,	:	Civil Action No.
	:	1:12-cv-2296-TCB
	:	
	:	
v.	:	
	:	
AUBREY LEE PRICE, et al.	:	
	:	
Defendants.	:	
	/	

**RECEIVER'S RESPONSE TO INTERVENOR PLAINTIFFS
PROTECTIVE LIFE INSURANCE COMPANY'S AND HOUSEHOLD
LIFE INSURANCE COMPANY'S MOTION FOR LEAVE TO FILE
SURREPLY IN SUPPORT OF THEIR JOINT OBJECTION TO
RECEIVER'S APPLICATIONS FOR FEES**

The Receiver, Melanie E. Damian, files her response to Intervenor Plaintiffs Protective Life Insurance Company's and Household Life Insurance Company's (hereinafter, the "Insurers") Motion for Leave to File Surreply in Support of Their Joint Objection to Receiver's Applications for Fees [D.E. 195] (the "Motion to File Surreply") and states:

On May 30, 2014 the Receiver filed her most recent motion for professional fees and expenses entitled "Seventh Interim Application for Order Authorizing

Payment of Fees and Expenses of Receiver and Her Professionals” (the “Seventh Application”). All three life insurance companies that intervened in this matter pursuant to Court’s May 12, 2014 Order [D.E. 163] filed a joint response the Seventh Application that they titled an “Objection” [D.E. 170] (the “Joint Objection”). On June 26, 2014, the Receiver filed her Reply (the “Reply,” [D.E. 190]) in response to the Joint Objection.

Then, on July 8, 2014, two of the three life insurance companies filed the Motion to File Surreply in response to the Receiver’s Reply. No cause or authority was offered in support of the Motion to File Surreply other than a statement that the proposed surreply would supposedly “assist this Court in its consideration of the Receiver’s Applications, including its consideration of issues raised for the first time in the Receiver’s Reply.” D.E. 195, pp. 1-2.¹

There are basically two arguments in the proposed surreply. One instructs the Court on how it should interpret its own Order, which the Parties have already briefed. D.E. 195, pp. 4-6. The Receiver believes briefing that issue further is not necessary. Second, the proposed surreply argues that the Insurance Companies have standing to object to the Receiver’s fees because the Receiver’s

¹ The life insurers’ counsel never contacted the Receiver’s counsel to confer regarding the relief they sought with their Motion to File Surreply.

representation in the Reply regarding the amount of funds in the Receivership Estate's bank account cannot be believed. D.E. 195-1, pp. 8-9. This fact could have been easily resolved if counsel for the two insurers who filed the Motion to File Surreply would have communicated their skepticism to the Receiver before filing their Motion. The Receiver would have provided the evidence they claim to need. To eliminate any doubt, the Receiver clarifies this issue in the attached Declaration. *See* Declaration of the Receiver, attached hereto as **Exhibit "A."**

The Motion to File Surreply should be denied because the proposed surreply provides no further guidance to the Court.

Respectfully submitted,

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LOCAL RULE 7.1D CERTIFICATION

By signature below, counsel certifies that the foregoing document was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1B.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this day I electronically filed with the Clerk of Court **Receiver's Response to Intervenor Plaintiffs Protective Life Insurance Company's and Household Life Insurance Company's Motion for Leave to File Surreply in Support of Their Joint Objection to Receiver's Applications for Fees** using the CM/ECF system, this 21st day of July, 2014, upon all counsel of record and to all parties listed on the attached Service List.

/s/ Kenneth Dante Murena

Kenneth Dante Murena, P.A.
Florida Bar No.: 147486
Admitted Pro Hac Vice

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Via CM/ECF

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ATLANTA DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff, : **Civil Action No.**
: **1:12-cv-2296-TCB**

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AUBREY LEE PRICE, et al.

Defendants.

DECLARATION OF THE RECEIVER

1. My name is Melanie E. Damian, the Court-appointed Receiver in the above-captioned matter, and I am making the statements herein based on personal knowledge and under penalty of perjury.

2. As of the date of this Declaration, the Receivership Estate has a total of \$2,408,695.74 in cash in the Receivership bank accounts, excluding the amounts held in the Receiver's Venezuela attorney's Trust account used for the operation of the farms

Declared under penalty of perjury on this 21 day of July, 2014.

By: Melanie E. D.

